

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

CHARLES WILLIS,

Plaintiff,

vs.

No. CIV 14-0696 JB/LAM

BOARD OF BERNALILLO COUNTY
COMMISSIONERS,
METROPOLITAN DETENTION CENTER,
FNU GALARDO, ERIC ALLEN,
DENISE SANCHEZ, GEORGE DOYAL,
FNU SMITH, FNU HENDERSON,

Defendants.

ORDER OF DISMISSAL WITHOUT PREJUDICE

THIS MATTER comes before the Court to consider Plaintiff Charles Willis' failure to respond to the Order Granting Leave to Proceed Pursuant to 28 U.S.C. § 1915(b), and to Make Payments or Show Cause, filed August 29, 2014 (Doc. 7)("1st Order"). In the 1st Order, the Honorable Lourdes A. Martinez, United States Magistrate Judge for the District of New Mexico ordered Willis make the initial partial payment toward the filing fee pursuant to 28 U.S.C. § 1915(b) or to show cause to excuse his failure to pay. See 1st Order at 1. In the 1st Order, the Court granted: (i) Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915, filed August 7, 2014 (Doc. 2); and (ii) the Application to Proceed in District Court Without Prepaying Fees or Costs, filed August 22, 2014 (Doc. 6)(collectively, the "1st Motion"). See 1st Order at 1. Judge Martinez ordered Willis to make an initial partial payment of \$8.41 within thirty days or to show cause why the payment should be excused. See 1st Order at 1. Judge Martinez warned Willis that, if he failed "to make a payment by the designated deadline or show cause why such payments should be excused, **the civil rights**

complaint may be dismissed without prejudice without further notice.” 1st Order at 2 (emphasis in original).

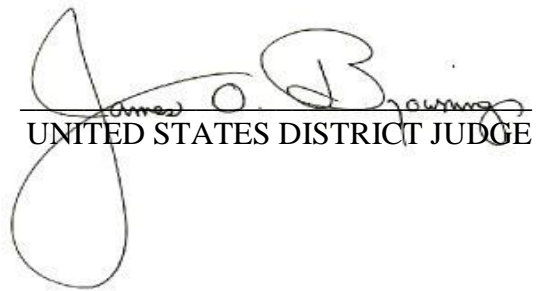
On September 29, 2015, Willis filed a motion asking for the initial partial payment to be excused due to insufficient funds in his inmate account. See Motion Asking for Payment to Be Excused, filed September 29, 2015 (Doc. 8)(“2d Motion”). Judge Martinez denied the 2d Motion, explaining that “[t]here is no constitutional violation in requiring an inmate to choose between prison purchases and litigation.” Memorandum Opinion and Order, filed December 11, 2014 (Doc. 9)(“MOO”). Judge Martinez ordered Willis to make the initial partial payment of \$8.41 within twenty-one days or to show cause why the payment should be excused. See MOO at 2. Judge Martinez again warned Willis that **“failure to comply with the Court’s order or statutory payment requirements, or to show cause for excusing the failure, may result in dismissal of the complaint.”** MOO at 2 (emphasis in original).

On January 2, 2015, Willis filed a second motion to excuse the initial partial payment of \$8.41. See Motion, filed January 2, 2015 (Doc. 10)(“3d Motion”). In the 3d Motion, Willis said that, although he had sufficient funds to make the initial partial payment, the Metropolitan Detention Center (“MDC”) would not permit him to make the initial partial payment and, therefore, he needed “the court to subpoena [sic] M.D.C. to make the payment, and/or excuse the payment.” 3d Motion at 1. On February 24, 2015, Judge Martinez denied the 3d Motion, explaining that Willis had sufficient funds to make the initial partial payment and “[t]he Court regularly receives payments from inmates at the facility where Plaintiff is being held.” Order, filed February 24, 2015 (Doc. 12)(“2d Order”). Judge Martinez ordered Willis to make the initial partial payment of \$8.41 within fourteen days or to show cause to excuse his failure to make the payment. See 2d Order at 1. Judge Martinez warned Willis for the third time that, if

he failed to comply with the 2d Order, “**the civil rights complaint may be dismissed without prejudice without further notice.**” 2d Order at 1.

Willis has failed to comply with the 2d Order to make the initial partial payment of \$8.41 or to show cause to excuse his failure. Because Willis has failed to respond to the 2d Order or to comply with 28 U.S.C. § 1915, the Court will dismiss the Civil Rights Complaint Pursuant to 42 U.S.C. § 1983, filed August 7, 2014 (Doc. 1), without prejudice.

IT IS ORDERED that the Civil Rights Complaint Pursuant to 42 U.S.C. § 1983, filed August 7, 2014 (Doc. 1), is dismissed without prejudice.



UNITED STATES DISTRICT JUDGE

Party:

Charles Willis
Los Lunas, New Mexico

Plaintiff pro se